

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

Mark Kerner,  
Petitioner

v.

Case No. 13-cv-132-SM

Warden, Northern N.H.  
Correctional Facility,  
Respondent

**O R D E R**

After due consideration of petitioner's objection, I herewith approve the Report and Recommendation of Magistrate Judge Andrea K. Johnstone dated February 24, 2015, for the reasons set forth therein.


Respondent's Motion to Dismiss (document no. 29) is granted, and the Petition for Writ of Habeas Corpus (document no. 3) is dismissed. Petitioner's "Motion to Request that 'Motion for Continuances' and 'Affidavits' Be Admitted and to Expand the Record to Include Them" (document no. 44) is denied as moot.

Additionally, because petitioner has failed to make a substantial showing of the denial of a constitutional right, the court declines to issue a certificate of appealability. See 28 U.S.C. § 2253(c)(2). Petitioner may, however, seek such a

certificate from the court of appeals. See Rule 11(a), Federal Rules Governing Section 2254 Cases.

The Clerk of Court shall close the case.

**SO ORDERED.**

  
Steven J. McAuliffe  
United States District Judge

March 27, 2015

cc: Mark Kerner, pro se  
Elizabeth C. Woodcock, Esq.